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U.S. SUPREME COURT UNANIMOUSLY UPHOLDS BORDER PATROL VEHICLE STOP NEAR DOUGLAS

PHOENIX, ARIZONA -- The United States Attorney's Office for the District of Arizona, announced yesterday that the United States Supreme Court, in a unanimous opinion in United States v. Arvizu (No. 00-1519), ruled that a Border Patrol agent had acted properly when he stopped a vehicle containing marijuana on a dirt road near Douglas, Arizona. The Supreme Court reversed the opinion of the Ninth Circuit Court of Appeals, which had used a wrong legal standard when it ruled that the stop was unlawful.

The basic facts are as follows: In January, 1998, Border Patrol Agent Clinton Stoddard responded to sensor activity indicating a vehicle was traveling north on Leslie Canyon Road, a primarily unpaved road north of Douglas. Stoddard knew that another minivan with marijuana had been apprehended on that road several weeks before and that the dirt roads in that area were commonly used to circumvent a Border Patrol checkpoint on Highway 191. Another sensor indicated that the vehicle turned west on Rucker Canyon Road. Stoddard saw a minivan on Rucker Canyon Road, driven by Ralph Arvizu. Arvizu dramatically reduced the van's speed when he saw the agent. Arvizu appeared rigid and did not look at Stoddard. The children sitting in the back of the van had their feet raised as if they were resting on hidden cargo on the

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floor. When Stoddard started following the van, the children simultaneously began waving in an odd and abnormal manner, continuing for several minutes, as if instructed to do so. The minivan, which was traveling at a time when Border Patrol agents start to leave the area for a shift change, had passed the only local recreation area. It then made an abrupt turn on another dirt road which would have allowed it to successfully circumvent the checkpoint. Stoddard learned that the vehicle was registered to an address in Douglas four blocks north of the Mexican border in an area notorious for alien and narcotics smuggling. Based on all of the circumstances, Stoddard suspected that the van was involved in illegal smuggling, and stopped it. He found 128.85 pounds of marijuana, worth an estimated \$99,080, some of which was in a duffle bag under the children's feet.

The Honorable Frank R. Zapata, U.S. District Court judge for the District of Arizona, found that Agent Stoddard had acted lawfully when he stopped the vehicle, relying on approximately 10 factors cited by Stoddard. On appeal, the Ninth Circuit Court of Appeals reversed, finding that the agent and district court improperly relied on 7 of the 10 factors as a matter of law. After removing 7 factors from the total, the Ninth Circuit found that the 3 remaining factors were insufficient to justify the stop.

The United States Supreme Court granted the government's petition for certiorari and reversed the Ninth Circuit Court of Appeals. The Supreme Court stated that it has "said repeatedly that [reviewing courts] must look at the 'totality of circumstances' of each case to see whether the detaining officer has a 'particularized and objective basis' for wrongdoing." It found that "the approach taken by the Court of Appeals here departs sharply from the teachings of those cases." It noted that the Court of Appeals' "evaluation and rejection of seven of the listed factors in isolation from each other does not take into consideration the 'totality of the circumstances'" and that its prior caselaw "precludes this sort of divide-and-conquer analysis."

"We are very pleased that the Supreme Court in Arvizu re-affirmed what it has said for over 20 years," said Christina M. Cabanillas, the Assistant U.S. Attorney who handled the case at trial and on

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appeal. “Law enforcement officers may look at the ‘whole picture’ when deciding whether to stop someone to investigate possible criminal activity.”

Assistant U.S. Attorney Christina M. Cabanillas handled the case on appeal to the Ninth Circuit Court of Appeals and assisted in the certiorari process at the Supreme Court. The Solicitor General’s Office represented the government at the Supreme Court, and Mr. Austin Schlick argued the case.

CASE NUMBER: Supreme Court: No. 00-1519
Ninth Circuit Court of Appeals: No. 99-10229
District of Arizona: No. CR-98-157-TUC-FRZ

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